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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,043	08/13/1999	MICHAEL D. ELLIS	UV-97	3248

7590

10/08/2003

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EXAMINER

LUU, SY D

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

44

Office Action Summary

Application No.

09/374,043

Applicant(s)

ELLIS ET AL.

Examiner

Sy D Luu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 14-24, 33-43 and 52-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 14-24, 33-43 and 52-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is responsive to the RCE and Amendment A both filed 7/21/03.
2. Claims 1-5, 14-24, 33-43 and 52-56 are pending in this application. Claims 1, 14, 20, 33, 39 and 52 are independent claims. Claims 1, 14, 17, 20, 33, 36, 39 and 52 are amended. This action is made Non-Final.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4-5, 20-21, 23-24, 39-40 and 42-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander et al. ("Alexander", US 6,177,931 B1).

As per claims 1-2 and 4-5, Herz teaches a method for use in a client-server interactive television program guide system comprising:

providing a user with an opportunity to define user preferences using an interactive television program guide client that is implemented on user television equipment, without requiring the user to navigate the Internet (col. 28, lines 10-21 and col. 29, lines 56-59);

providing the user preferences to a program guide server (col. 29, lines 14-20; *head end*), and providing individualized program guide data from the program guide server to the program guide client according to the user preferences (col. 28, lines 22-24 and col. 29, lines 31-37), and generating a viewing recommendation based on the user preferences with the program guide server and displaying the user preferences with the interactive television program guide client on the user television equipment (col. 30, lines 45-58); and

providing software to the program guide client and providing Internet links to the program guide client according to the user preferences (col. 8, lines 36-43; col. 30, lines 1-16 and col. 31, lines 9-18)

Claims 20-21 and 23-24 are similar in scope to claims 1-2 and 4-5 respectively, and are therefore rejected under similar rationale.

Claims 39-40 and 42-43 are similar in scope to claims 1-2 and 4-5 respectively, and are therefore rejected under similar rationale.

Claim Rejections - 35 USC § 103

6. Claims 14-19, 33-38 and 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. ("Alexander", US 6,177,931 B1).

As per claims 14-15, Alexander teaches a method for use in a client-server interactive television program guide system for tracking a user's viewing history, comprising:

tracking a user's viewing history, storing the user's viewing history on a program guide server by storing a user defined expression with the program guide server, finding programs with the program guide server that are consistent with the individual user's viewing history, and

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indicating on user television equipment the programs found by the program guide server, with an interactive television program guide client implemented on the user television equipment (col. 28, lines 22 et seq.; and col. 29, lines 12 et seq.; and col. 30, lines 45-58). Alexander does not explicitly disclose the programs found by the program guide server to include those that the user has not watched. However, Official Notice is given that indicating and displaying programs that users have not watched is well known in the art. It would have been obvious to an artisan at the time of the invention to include this feature with Herz's method in order to keep users informed of those programs that have not been watched.

As per claim 16, Alexander teaches the step of calculating user demographic values with the program guide server (col. 30, lines 29-37).

As per claim 17, Herz further teaches the steps of: providing a user with an opportunity to define a user preference profile with the interactive television program guide client implemented on user television equipment, storing the user preference profile on a program guide server, and finding programs with the program guide server that are consistent with the user preference profile, wherein: indicating on user television equipment the programs found by the program guide server that are consistent with the user's viewing history and that the user has not watched comprises indicating on user television equipment the programs found by the program guide server that are consistent with the user's viewing history and the user preference profile and that the user has not watched (col. 28, lines 22 et seq.; and col. 29, lines 12 et seq.; and col. 30, lines 45-58).

As per claim 18, Alexander further teaches the step of: targeting advertising with the program guide server based on the user's viewing history; and displaying the advertising with the

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interactive television program guide client on the user television equipment (col. 32, lines 22-34).

As per claim 19, Alexander teaches the step of collecting program ratings information with the program guide server based on the user's viewing history (col. 29, lines 30 et seq.).

Claims 33-38 are similar in scope to claims 14-19 respectively, and are therefore rejected under similar rationale.

Claims 52-56 are similar in scope to claims 14 and 16-19 respectively, and are therefore rejected under similar rationale.

7. Claims 3, 22 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alexander et al. ("Alexander", US 6,177,931 B1) in view of Herz et al. ("Herz", US 6,020,883).

As per claim 3, although Alexander teaches the step of providing a user with an opportunity to provide a plurality of preference attributes (col. 28, lines 10-21 and col. 29, lines 56-59), Alexander does not expressly teaches said step to designate a preference level for the preference attributes. This is what Herz teaches in a substantially similar environment (col. 13, lines 39-42). It would have been obvious to an artisan at the time of the invention to combine Herz's teaching with Alexander's method in order to provide a means for further fine tuning the level or degree of preference.

Claims 22 and 41 are individually similar in scope to claim 3, and are therefore rejected under similar rationale.

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Response to Arguments

8. Applicant's arguments with respect to the independent claims have been considered but are moot in view of the new ground(s) of rejection.

The Examiner agrees with Applicant that Herz does not provide individualized program guide data to a program guide client according to the user preferences. Rather the claims are rejected over Alexander et al.

Inquires

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is (703) 305-0409. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.


The fax number for the organization where this application or proceeding is assigned are as follows:

(703) 746-7238 [After Final Communication]

(703) 746-7239 [Official Communication]

(703) 746-7240 [For status inquiries, Draft Communication]

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


SY D. LUU
PRIMARY EXAMINER